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Kyrus L. Freeman
202.862.5978
kyrus.freeman@hklaw.com

October 31, 2013

Hand Delivery

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, DC 20001

Re: BZA Case No. 18269 - Two-Year Extension Request

Dear Members of the Board:

On behalf of Triangle Development Associates, LLC (the "Applicant"), the applicant in the above-referenced case, we hereby request the Board of Zoning Adjustment ("Board" or "BZA") to extend the validity of the order in BZA Application No. 18269 an additional two years, pursuant to Section 3130.6 of the Zoning Regulations, until November 3, 2015. A copy of the order is attached as Exhibit A. The existing BZA order will expire on November 3, 2013. A check made payable to the D.C. Treasurer in the amount of $865.28, which is 26% of the original filing fee as required by Section 3180.1(f) of the Zoning Regulations is also enclosed.

I. Background

Pursuant to Order No. 18269, which became final and effective on November 3, 2011, the Board granted an area variance from the floor area ratio requirements under subsection 771.1; an area variance from the lot occupancy requirements of subsection 772.1; and a special exception under section 2108, to allow an addition to an existing residential building with ground floor retail in the C-3-A District at premises 1375 Kenyon Street, N.W. (Square 2843, Lot 78) (the "Site"). The Site is currently improved with a building that includes 117 apartment units and 18,000 square feet of ground floor retail space. The zoning relief granted pursuant to Order No. 18269 would enable the construction of an addition to the existing building, and upon completion, the building will include 133 residential units.

II. The Applicant Meets the Standards for a BZA Extension

A. Standard of Review

Section 3130.6 of the Zoning Regulations authorizes the BZA to extend the time periods for BZA approvals provided (i) the extension request is served on all parties to the application by

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18269
EXHIBIT NO. 37

Loan Data		
maturity:		3/1/2027
origination:		2/20/2007
Original Loan Amount:		28,900,000
Monthly Pmt. P&I, Current[3]	$	180,034
Mo. Tax & Ins. Reserve		20,919
Mo. Replacement Reserve		2,437
Mo. Ground Lease		10,786
Monthly Payment	$	214,176
Annual Debt Service P&I	$	2,160,408

"**Yield Rate**" is the current interest rate of the treasury note maturing August 15, 2022 with a coupon of 7.25%

			As of 10/17/2011	As of 10/17/2012	As of 10/16/2013
	7.25% August 2022 Treas		2.214%	1.67%	2.276%
	[3]360 day basis interest rate		6.36%	6.36%	6.36%
	Nominal Rate		6.08%	6.08%	6.08%
6.36%	Yield Rate		4.147%	4.689%	4.085%
	Yield rate	r=	4.147%	4.689%	4.085%
	Principal being prepaid	$	27,191,309	$26,747,758	$26,275,156
		n=	124 mos.	112 mos.	100 mos.
	Present Value Factor		8.27	8.39	6.84
	Prepayment Penalty:		9,323,142	10,524,362	7,342,660

the applicant, and all parties are allowed thirty days in which to respond; (ii) there is no substantial change in any of the material facts upon which the Board based its original approval; and (iii) the applicant demonstrates there is good cause for such extension. Sections 3130.7-3130.10 of the Zoning Regulations set forth additional criteria for evaluating extension requests.

Here, the Applicant seeks a two-year extension of the order's validity due to the Applicant's inability to obtain sufficient project financing, despite the Applicant's good faith efforts, due to economic and market conditions beyond the Applicant's reasonable control.

B. Service of Extension Request on All Parties

By copy of this letter and attached exhibits, the Applicant is serving all parties to the initial BZA application a copy of this extension request, in compliance with Section 3130.6(a).

C. No Substantial Changes to Project

The proposed project has not changed in any material respect, nor have any of the material facts changed upon which the Board relied in granting the application, in satisfaction of Section 3130.6(b).

D. Good Cause for the Extension Request

Section 3130.6(c)(1) of the Zoning Regulations authorizes the BZA to extend orders based on an inability to obtain sufficient project financing due to economic and market conditions beyond the Applicant's reasonable control. As set forth in the Affidavit of Applicant, and the supporting exhibits thereto attached as Exhibit B, the existing building on the Site is financed by both the Federal National Mortgage Association ("FNMA") and a New Market Tax Credit ("NMTC") allocation, both of which impose substantial constraints on redevelopment of the Site. The Applicant has worked diligently to address the FNMA and NMTC obligations and constraints in order to move forward with construction of the proposed addition, and granting the requested extension will enable the Applicant to continue working to resolve the FNMA and NMTC constraints and to ultimately move forward with construction of the approved addition.

As described in the affidavit, pursuant to IRC §45D(d)(1)(A), NMTCs are limited to certain qualified investments, and the rental of real property only qualifies if the property is not residential rental property. IRC 168(e)(2)(A)(i), defines "residential rental property" as "any building or structure if 80 percent or more of the gross rental income from such building or structure for the taxable year is rental income from dwelling units." 26 U.S.C. § 168(e)(2)(A)(i) (West).

Upon stabilization of the addition, the building would have been in default of the NMTC loan because it would have then been deriving more than 80% of its gross rental income from the residential portion of the building, and thus would have become a "residential rental property" as defined in IRC 168(e)(2)(B). The NMTC loan is being repaid and the restrictive covenants will be released in the near future. Thus, approval of the requested extension would allow sufficient time for the Applicant to completely repay the NMTC allocation and release the applicable restrictive covenants on the Site, which would then enable the Applicant to move forward with construction of the addition.

Moreover, with respect to the FNMA loan, the existing FNMA loan on the Site would require the Applicant to either pre-pay the FNMA loan and refinance the Site, or to complete the addition out of cash reserves, as FNMA loans do not permit subordinate third party financing. As shown on the spreadsheet attached to the affidavit, when the Applicant first filed the BZA application, the FNMA loan prepayment penalty was approximately $4,000,000, and subsequently exceeded $11,000,000. It is currently approximately in excess of $7,000,000, so the prepayment alternative is still not viable. However, as a result of (1) improving market conditions; (2) the Applicant's offer to reinvest all of the proceeds of any supplemental loan proceeds in the collateral; and (3) FNMA's improving balance sheet, FNMA has recently expressed a strong willingness to waive many of the very onerous supplemental loan requirements, which would permit the Applicant to borrow 100% of the cost of the expansion. Thus, the requested extension would also enable the Applicant to continue working with FNMA to reach financing terms that would enable the Applicant to move forward with construction of the addition.

The circumstances described above are beyond the reasonable control of the Applicant and demonstrate that good cause exists to extend the validity of the order in compliance with Section 3130.6(b).

E. Compliance with Other Applicable Provisions

Under Section 3130.7, "a time extension granted pursuant to § 3130.6 shall not exceed two (2) years, or one (1) year for an Electronic Equipment Facility." The requested extension is for a period of two years, and thus complies with this requirement.

We believe that the facts descried above provide sufficient basis for the Board to grant the requested extension, and we thus respectfully request that the Board approve the extension request.

Very truly yours,

Kyrus L. Freeman

cc: Advisory Neighborhood Commission 1A (w/encl. by mail)
Jennifer Steingasser, D.C. Office of Planning (w/encl. by hand delivery)

#26045288_v1

A

1010

TRIANGLE DEVELOPMENT LLC
8101 GLENBROOK RD SUITE B
BETHESDA, MD 20814

EAGLEBANK
Bethesda, MD 20814
65-329-550

10/31/2013

PAY TO THE ORDER OF D.C. Treasurer $**865.28

Eight Hundred Sixty-Five and 28/100*** DOLLARS

Security features. Details on back.

DC Office of Tax & Revenue
P.O. Box 92300
Washington, DC 20090

AUTHORIZED SIGNATURE

MEMO BZA #18269 - Minor Mod. Request

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 18269 of Triangle Development Associates LLC, *pursuant to* 11 DCMR §§ 3104.1 and 3103.2, for an area variance from the floor area ratio requirements under subsection 771.1; an area variance from the lot occupancy requirements of subsection 772.1; and a special exception under section 2108 to reduce the amount of parking spaces required for the nonresidential uses, to allow an addition to an existing residential building with ground floor retail in the C-3-A District at premises 1375 Kenyon Street, N.W. (Square 2843, Lot 78).

HEARING DATE: November 1, 2011
DECISION DATE: November 1, 2011 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 1A, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A submitted a resolution, dated October 12, 2011, in support of the application. The ANC's report indicated that at a duly noticed and regularly scheduled public meeting on October 12, 2011, with a quorum present, the ANC voted unanimously (9:0) to support the application. (Exhibit 25.) The Office of Planning ("OP") (Exhibit 27) and the District's Department of Transportation ("DDOT") (Exhibit 28) also submitted reports in support of the application.[1]

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from the strict application of the floor area ratio requirements under § 771.1; the lot occupancy requirements under § 772.1; and to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under §§ 3104.1 and 2108 to reduce the amount of parking spaces required for nonresidential uses. No parties appeared at the public hearing in opposition to the

[1] In response to the Board's questions, the Applicant testified that it had shared its plans and spoken to the neighboring property owner and that this adjacent neighbor had voiced no objections to the project.

application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for variances under §§ 711.1 and 772.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Further, after consideration of all of the requirements stated in § 2108.3 of the Zoning Regulations, the Board concludes that the Applicant has satisfied all of these requirements, and thus met the burden of proof, pursuant to 11 DCMR § 3104.1, for a special exception under § 2108. Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2108, that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED (pursuant to Exhibit 26, Attachment - Plans).**

VOTE: **5-0-0** (Meridith H. Moldenhauer, Nicole C. Sorg, Lloyd L. Jordan, Jeffrey L. Hinkle, and Michael G. Turnbull to approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY: ______________________
RICHARD S. NERO, JR.
Acting Director, Office of Zoning

FINAL DATE OF ORDER: NOV 03 2011

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BZA APPLICATION NO. 18269

As Director of the Office of Zoning, I hereby certify and attest that on NOV 03 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Kyrus L. Freeman, Esq.
Holland & Knight
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 1A
1380 Monroe Street, N.W., #103
Washington, D.C. 20010

Single Member District Commissioner 1A06
Advisory Neighborhood Commission 1A
1215 Lamont Street, N.W.
Washington, D.C. 20010

Jim Graham Evans, Councilmember
Ward One
1350 Pennsylvania Avenue, N.W., Suite 105
Washington, D.C. 20004

Melinda Bolling, Esq.
General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024

ATTESTED BY:

RICHARD S. NERO, JR.
Acting Director, Office of Zoning

B

BOARD OF ZONING ADJUSTMENT
APPLICATION NO. 18269

Affidavit of Application in Support of Two-Year Extension of Time

I, Stuart D. Schooler, being duly sworn, depose and state as follows:

1. I am the Managing Member of Triangle Development Associates LLC ("Triangle Development"). Triangle Development is the owner of the property located at 1375 Kenyon Street, N.W. (Square 2843, Lot 78) (the "Site").

2. Pursuant to Order No. 18269, which became final and effective on November 3, 2011, the Board granted an area variance from the floor area ratio requirements under subsection 771.1; an area variance from the lot occupancy requirements of subsection 772.1; and a special exception under section 2108, to allow an addition to an existing residential building with ground floor retail in the C-3-A District at the Site.

3. The Site is improved with a building that includes 117 apartment units and 18,000 square feet of ground floor retail space. The zoning relief granted pursuant to Order No. 18269 would enable the construction of an addition to the existing building, and upon completion, the building will include 133 residential units.

4. The existing building on the Site is financed by a Federal National Mortgage Association ("FNMA") loan and was financed by a New Market Tax Credit ("NMTC") allocation, both of which impose constraints on redevelopment of the Site.

5. Since the BZA order was issued, we have been working diligently to address the FNMA and NMTC constraints, as described in more detail below, in order to move forward with construction of the addition.

6. Pursuant to IRC §45D(d)(1)(A), NMTCs are limited to certain qualified investments, and the rental of real property only qualifies if the property is not residential rental property. (See also IRS Memorandum LMSB-04-0510-06 May 2010, pages 20-21 attached hereto as Exhibit A). IRC 168(e)(2)(B) defines the term "nonresidential real property" as "section 1250 property which is not (i) residential rental property, or (ii) property with a class life of less than 27.5 years." 26 U.S.C.A. § 168(e)(2)(B) (West). Moreover, IRC 168(e)(2)(A)(i), defines "residential rental property" as "any building or structure if 80 percent or more of the gross rental income from such building or structure for the taxable year is rental income from dwelling units." 26 U.S.C. § 168(e)(2)(A)(i) (West). Upon stabilization of the addition, the building would have been in default of the NMTC loan because it would have then been deriving more than 80% of its gross rental income from the residential portion of the building, and thus would have become a "residential rental property" as defined in IRC 168(e)(2)(B).

7. The NMTC loan is being repaid and the restrictive covenants will be released in the near future (early 2014). Thus, approval of the requested extension would allow sufficient time for us to completely repay the NMTC allocation and release the applicable

restrictive covenants on the Site, which would then enable us to move forward with construction of the addition.

8. With respect to FNMA, the existing FNMA loan on the Site would require us to either pre-pay the FNMA loan and refinance the Site, or to complete the addition out of cash reserves, as FNMA loans do not permit subordinate third party financing. As shown on the spreadsheet attached hereto as Exhibit B, when we first filed our application with the BZA, the FNMA loan prepayment penalty was approximately $4,000,000. It exceeded $11,000,000 a year later. It is currently approximately in excess of $7,000,000, so the prepayment alternative is still not viable. However, as a result of (1) improving market conditions; (2) the Applicant's offer to reinvest all of the proceeds of any supplemental loan proceeds in the collateral; and (3) FNMA's improving balance sheet, FNMA has recently expressed a strong willingness to waive many of the very onerous supplemental loan requirements, which would permit us to borrow 100% of the cost of the expansion. Thus, the requested extension would also enable us to continue working with FNMA to reach financing terms that would enable us to move forward with construction of the addition.

9. To date, we have invested substantially in the Site, and are committed to moving forward with the approved addition. However, it will take additional time to resolve the issues concerning the NMTC allocation and the FNMA challenges as described above. Thus, we are requesting an extension of Order No. 18269.

I solemnly affirm under the penalty of perjury that the contents of this Affidavit are true and correct to the best of my personal knowledge.

Stuart D Schooler

Stuart D. Schooler
Managing Member
Triangle Development Associates LLC

On October 30, 2013, Stuart D. Schooler did personally appear and sign this document.

Dorothea B. Emmet
My commission expires Oct. 8, 2015

DOROTHEA B. EMMET
Notary Public
State of Maryland
Montgomery County

Internal
Revenue
Service

Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Contents

technical guidance should be requested if it is discovered that a CDE has forgiven a loan and claimed a charitable contribution deduction for the amount of the discharged indebtedness.

Qualified Active Low-Income Community Businesses (QALICB)

Qualified Active Low-Income Community Business Defined

Under IRC §45D(d)(1)(A), a CDE may invest in a QALICB as defined in IRC §45(d)(2). See also Treas. Reg. §1.45D-1(d)(4)(i) and Notice 2006-60.

Step 3: Evaluate CDE's Investments in Qualified Active Low-Income Community Businesses

Now that the amount of equity available for investment in qualified investments has been identified and traced to investments in low-income communities, the next step is to determine whether the investments were made to QALICBs. Again, this will require an investment-by-investment evaluation. There are four issues to consider:

1. Whether the investment was made to an *entity* that qualifies,
2. Whether the *business activity* qualifies,
3. Whether the entity is engaged in the *active conduct* of a qualified business, and
4. Whether the entity's *income*, *activities*, and *assets* qualify.

Issue 1: Qualifying Business Entities

The business entity can be a corporation (including a nonprofit corporation) or a partnership. A sole proprietorship can also qualify if the business would otherwise meet the requirements if it were incorporated. See Treas. Reg. §1.45D-1(d)(4)(ii).

A CDE can treat any trade or business (or portion thereof) as a qualified active low-income business if the entity would otherwise meet all the requirements if it were separately incorporated and a separate set of books and records are maintained for that trade or business (or portion thereof). The CDE's equity investment (or loan) is a QLICI to the extent that the proceeds are used by the trade or business (or portion thereof) that is treated as a qualified active low-income community business.

Generally, an entity is treated as a qualified active low-income community business for the duration of the CDE's investment in the entity if the CDE reasonably expects, *at the time of the investment or loan,* that the entity will satisfy all the requirements to be a qualified active low-income community business throughout the entire period of the investment or loan. In other words, the ultimate failure of a qualified active low-income community business will not require recapture of the NMTC if the CDE uses the reasonable expectation test. See Treas. Reg. §1.45(D)-1(d)(6)(i).

If the CDE controls or obtains control of the entity at any time during the 7-year credit period, then the entity will be treated as a qualified active low-income community business only if the requirements of Treas. Reg. §1.45D-1(d)(4)(i) are met throughout the entire period the CDE controls the entity.

- Control is defined as direct or indirect ownership (based on value) or control (based on voting or management rights) of more than 50 percent of the entity.

- Management rights are defined as the power to influence the management policies or investment decisions of the entity. See Treas. Reg §1.45D-1(d)(6)(ii).

There is an exception under Treas. Reg. §1.45D-1(d)(6)(ii)(C) for the first 12 months after acquiring control if the CDE acquires control due to financial difficulties that were unforeseen at the time of the investment and the acquisition of control occurs before the seventh year of the 7-year period; i.e., the CDE can step in to assist the entity. However, by the end of the 12-month period, the entity must again meet the requirements for QALICBs, or the CDE must sell or redeems the entire amount of the investment and reinvest the proceeds in a QLICI by the end of the 12-month period.

Issue 2: Qualifying Business Activities

Generally, all business activities are acceptable, with the following qualifications and exceptions.

Rental of Real Property

The rental to others of real property located in a low-income community is acceptable if and only if:

1. The property is not residential rental property under IRC §168(e)(2)(A), and

2. There are substantial improvements on the property.

Further, the CDE's investment or loan is not a QLICI to the extent that a lessee of the real property is an excluded business as described in 2 below.

Excluded Businesses

Specific business activities are excluded under Treas. Reg. §1.45D-1(d)(5)(ii) and are listed here:

1. Trades or businesses consisting predominantly of the development or holding of intangibles for sale or license.

2. Trades or businesses consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, race track or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off the premises.

3. Farming (within the meaning of IRC §2032A(e)(5)(A) or (B)) if, as of the close of the taxable year of the taxpayer conducting such trade or business, the sum of the aggregate unadjusted basis (or, if greater, the fair market value) of the assets owned by the taxpayer that are used in such trade or business, and the aggregate value of the assets leased by the taxpayer that are used in such trade or business, exceeds $500,000. Two or more trades or businesses will be treated as a single trade or business under rules similar to the rules of IRC §52(a) and (b).

Issue 3: Active Conduct of a Qualified Business

The entity must be engaged in the active conduct of a qualified business, as defined in Treas. Reg. §1.45D-1(d)(4)(i). The entity will be treated as engaged in the active conduct of a trade or business if, at the time the CDE makes the investment or loan, the CDE reasonably expects the entity to generate revenues within 3 years after the

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

FORM 126 – BOARD OF ZONING ADJUSTMENT FEE CALCULATOR

Per §3180 of the Zoning Regulations, at the time of the filing of an application or an appeal with the Board of Zoning Adjustment, the applicant or appellant shall pay a filing fee in accordance the fee calculator below. In the case of an application combining two (2) or more actions, or for an application requesting consideration of more than one alternative, the fee shall be the total of the amounts for each action or alternative computed separately. However, for applications involving owner-occupied, one-family dwellings or flats, regardless of the number of variances, special exceptions, or alternatives requested, the fee is three hundred and twenty-five dollars ($325.00). A department, office, or agency of the Government of the District of Columbia shall not be required to pay a filing fee where the property is owned by the agency and the property is to be occupied for a government building or use.

APPLICATION OR APPEAL TYPE:	FEE	UNIT	TOTAL
VARIANCE:			
Owner-Occupied Dwelling	$325		
All Other Variances Per Section Requested	$1,040		
		TOTAL FOR VARIANCES:	
SPECIAL EXCEPTION:			
Parking Lot/Garage/Accessory Parking (per space)	$104		
Child Development Center (per student)	$33		
Private School (per student)	$33		
Residential Under §353	$520		
CBRF (per person)	$104		
Office Use in SP (per 100 square feet)	$52		
Roof Structures	$2,600		
Hotel or Inn in SP (per room or suite)	$104		
Gasoline Service Station	$5,200		
Repair Garage	$1,560		
Home Occupation	$1,560		
Accessory Apartment Under §202	$325		
Theoretical Lot Under §2516	$1,560		
Additional Theoretical Lot Under §2516	$520		
Recycling Facility Under §802	$5,200		
Antenna Under §211	$2,600		
Any Other Special Exception	$1,560		
Chancery (per 100 square feet)	$65		
Owner-Occupied Special Exception	$325		
Time Extension/Modification – Owner Occupied	$130		
Time Extension/Modification – All other (percentage of filing fee)	26%	Original Filing fee = $3,328.00	$865.28
		TOTAL FOR SPECIAL EXCEPTIONS:	$865.28
APPEAL:			
NCPC/ANCs/Citizens Association/Civic Association/Not-for-Profits	$0		
All other organizations, groups or persons	$1,040		
		TOTAL FOR APPEALS:	
		GRAND TOTAL:	$865.28

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than $1,000 or 180 days imprisonment or both. (*D.C. Official Code § 22 2405*)

Name: Kyrus L. Freeman, Esq. **Signature:** Kyrus

Exhibit No. ________________ Last Revised (10/18/10) **Case No.** ________________